

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 591**

BY SENATORS TRUMP, GAUNCH, WALTERS, ASHLEY,  
SNYDER, BEACH, TAKUBO, MAYNARD, KESSLER,  
PALUMBO, BLAIR, MILLER, WILLIAMS, KIRKENDOLL,  
WOELFEL, ROMANO, MULLINS, UNGER, LAIRD, SYPOLT,  
STOLLINGS AND PLYMALE, *original sponsors*  
[Passed March 11, 2016; in effect from passage]

1 AN ACT to amend and reenact §3-2-3, §3-2-4a and §3-2-12 of the Code of West Virginia, 1931,  
2 as amended; and to amend said code by adding thereto a new section, designated as §3-  
3 2-23a, all relating to creation and maintenance of voter registration lists; creating additional  
4 duties for Secretary of State relating to voter registration; authorizing Secretary of State to  
5 undertake voter registration list maintenance in a county under certain circumstances;  
6 requiring Secretary of State to provide written notice to clerk of county commission of need  
7 for voter registration record maintenance and allow ninety days before undertaking voter  
8 registration list maintenance in a county; delineating notice requirements; clarifying duty  
9 of Secretary of State to perform certain ongoing voter registration database maintenance;  
10 directing Secretary of State to enter into agreement with Division of Motor Vehicles for  
11 Division of Motor Vehicles to provide certain information regarding persons eligible to vote;  
12 setting forth information to be provided by Division of Motor Vehicles; permitting Secretary  
13 of State to use information for voter registration list maintenance comparison through  
14 interstate data-sharing agreement as designated by Secretary of State; identifying  
15 additional permissible uses of funds in Combined Voter Registration and Driver Licensing  
16 Fund; providing for periodic transfer of funds from that fund to General Revenue Fund  
17 under certain circumstances; authorizing cancellation of registration of deceased or  
18 ineligible voters; and granting certain rule-making authority to Secretary of State.

*Be it enacted by the Legislature of West Virginia:*

1 That §3-2-3, §3-2-4a and §3-2-12 of the Code of West Virginia, 1931, as amended, be  
2 amended and reenacted; and that said code be amended by adding thereto a new section,  
3 designated as §3-2-23a, all to read as follows:

## **ARTICLE 2. REGISTRATION OF VOTERS.**

### **§3-2-3. State authority relating to voter registration; chief election official.**

1 (a) The Secretary of State, as chief election official of the state as provided in section six,  
2 article one-a of this chapter, shall have general supervision of the voter registration procedures

3 and practices and the maintenance of voter registration records in the state and shall have  
4 authority to require reports and investigate violations to ensure the proper conduct of voter  
5 registration throughout the state and all of its subdivisions. Upon written notice to the clerk of the  
6 county commission of a county of the need for voter registration record maintenance and the  
7 failure of that clerk to complete such maintenance within ninety days of the notice, the Secretary  
8 of State may make changes in the voter registration data necessary to comply with list  
9 maintenance requirements of sections four-a, twenty-three, twenty-five, twenty-six and twenty-  
10 seven of this article: *Provided*, That the secretary shall send the notice by certified mail, return  
11 receipt requested.

12 (b) The Secretary of State, as chief election official of the state, is responsible for  
13 implementing, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized,  
14 interactive computerized statewide voter registration list defined, maintained and administered at  
15 the state level that contains the name and registration information of every legally registered voter  
16 in the state and assigns a unique identifier to each legally registered voter in the state.

17 (c) The Secretary of State is hereby designated as the chief election official responsible  
18 for the coordination of this state's responsibilities under 42 U.S.C. §1973gg, *et seq.*, the "National  
19 Voter Registration Act of 1993". The Secretary of State shall have general supervision of voter  
20 registration procedures and practices at agencies and locations providing services as required by  
21 the provisions of this article and shall have the authority to propose procedural, interpretive and  
22 legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-  
23 nine-a of this code for application for registration, transmission of applications, reporting and  
24 maintenance of records required by the provisions of this article and for the development,  
25 implementation and application of other provisions of this article.

**§3-2-4a. Statewide voter registration database.**

1 (a) The Secretary of State shall implement and maintain a single, official, statewide,  
2 centralized, interactive computerized voter registration database of every legally registered voter

in the state, as follows:

(1) The statewide voter registration database shall serve as the single system for storing and managing the official list of registered voters throughout the state.

(2) The statewide voter registration database shall contain the name, registration information and voter history of every legally registered voter in the state.

(3) In the statewide voter registration database, the Secretary of State shall assign a unique identifier to each legally registered voter in the state.

(4) The statewide voter registration database shall be coordinated with other agency databases within the state and elsewhere, as appropriate.

(5) The Secretary of State, any clerk of the county commission, or any authorized designee of the Secretary of State or clerk of the county commission, may obtain immediate electronic access to the information contained in the statewide voter registration database.

(6) The clerk of the county commission shall electronically enter voter registration information into the statewide voter registration database on an expedited basis at the time the information is provided to the clerk.

(7) The Secretary of State shall provide necessary support to enable every clerk of the county commission in the state to enter information as described in subdivision (6) of this subsection.

(8) The statewide voter registration database shall serve as the official voter registration list for conducting all elections in the state.

(b) The provisions of subdivision (6), subsection (a) of this section notwithstanding, the Secretary of State or any clerk of a county commission shall perform maintenance with respect to the statewide voter registration database on a regular basis as follows:

(1) If an individual is to be removed from the statewide voter registration database he or she shall be removed in accordance with the provisions of 42 U. S. C. §1973gg, *et seq.*, the National Voter Registration Act of 1993.

(2) The Secretary of State shall coordinate the statewide voter registration database with state agency records and shall establish procedures for the removal of names of individuals who are not qualified to vote due to felony status or death. No state agency may withhold information regarding a voter's status as deceased or as a felon unless ordered by a court of law.

(c) The list maintenance performed under subsection (b) of this section shall be conducted in a manner that ensures that:

(1) The name of each registered voter appears in the statewide voter registration database;

(2) Only voters who are not registered, who have requested in writing that their voter registration be canceled, or who are not eligible to vote are removed from the statewide voter registration database;

(3) Duplicate names are eliminated from the statewide voter registration database; and

(4) Deceased individuals' names are eliminated from the statewide voter registration database.

(d) The Secretary of State and the clerks of all county commissions shall provide adequate technological security measures to prevent the unauthorized access to the statewide voter registration database established under this section.

(e) The Secretary of State shall ensure, and may perform such maintenance necessary to ensure, that voter registration records in the state are accurate and updated regularly, including the following:

(1) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under the system, consistent with 42 U. S. C. §1973gg, *et seq.*, registrants who have not responded to a notice sent pursuant to section twenty six, article two of this chapter, who have not otherwise updated their voter registration address, and who have not voted in two consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely

by reason of a failure to vote;

(2) By participation in programs across state lines to share data specifically for voter registration to ensure that voters who have moved across state lines or become deceased in another state are removed in accordance with state law and 42 U. S. C. §1973gg, *et seq.*; and

(3) Through safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters.

(f) Applications for voter registration may be accepted only when the following information is provided:

(1) Except as provided in subdivision (2) of this subsection and notwithstanding any other provision of law to the contrary, an application for voter registration may not be accepted or processed unless the application includes:

(A) In the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number;

(B) In the case of an applicant who has been issued an identification card by the Division of Motor Vehicles, the applicant's identification number; or

(C) In the case of any other applicant, the last four digits of the applicant's Social Security number; and

(2) If an applicant for voter registration has not been issued a current and valid driver's license, Division of Motor Vehicles identification card, or a Social Security number, the Secretary of State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. The number assigned under this subdivision shall be the unique identifying number assigned under the statewide voter registration database.

(g)(1) The Secretary of State and the Commissioner of the Division of Motor Vehicles shall enter into an agreement to match and transfer applicable information in the statewide voter registration database with information in the database of the Division of Motor Vehicles to the extent required to enable each official to verify the accuracy of the information provided on

81 applications for voter registration.

82 (2) The Secretary of State and the Commissioner of the Division of Motor Vehicles shall  
83 enter into an agreement for the Division of Motor Vehicles to provide all name fields, residence  
84 and mailing address fields, driver's license or state identification number, last four digits of the  
85 Social Security number, date of birth, license or identification issuance and expiration dates, and  
86 current record status of individuals eligible to register to vote to the Secretary of State for the  
87 purpose of voter registration list maintenance comparison through an interstate data-sharing  
88 agreement designated by the Secretary of State as permitted by subdivision (2), subsection (e)  
89 of this section.

90 (h) The Commissioner of the Division of Motor Vehicles shall enter into an agreement with  
91 the Commissioner of Social Security under 42 U. S. C. §401, *et seq.*, the Social Security Act. All  
92 fees associated with this agreement shall be paid for from moneys in the fund created under  
93 section twelve of this article.

**§3-2-12. Combined voter registration and driver licensing fund; transfer of funds.**

94 (a) Fifty cents of each license fee collected pursuant to the provisions of section one,  
95 article three, chapter seventeen of this code shall be paid into the State Treasury to the credit of  
96 a special revenue fund to be known as the Combined Voter Registration and Driver Licensing  
97 Fund. The moneys so credited to such fund may be used by the Secretary of State for the  
98 following purposes:

99 (1) Printing and distribution of combined driver licensing or other agency applications and  
100 voter registration forms, or for the printing of voter registration forms to be used in conjunction  
101 with driver licensing or other agency applications;

102 (2) Printing and distribution of mail voter registration forms for purposes of this article;

103 (3) Supplies, postage and mailing costs for correspondence relating to voter registration  
104 for agency registration sites and for the return of completed voter registration forms to the  
105 appropriate state or county election official;

(4) Reimbursement of postage and mailing costs incurred by clerks of the county commissions for sending a verification mailing, confirmation of registration or other mailings directly resulting from an application to register, change or update a voter's registration through a driver licensing or other agency;

(5) Reimbursement to state funded agencies designated to provide voter registration services under this chapter for personnel costs associated with the time apportioned to voter registration services and assistance;

(6) The purchase, printing and distribution of public information and other necessary materials or equipment to be used in conjunction with voter registration services provided by state funded agencies designated pursuant to the provisions of this article;

(7) The development of a statewide program of uniform voter registration computerization for use by each county registration office and the Secretary of State, purchase of uniform voter registration software, payment of software installation costs and reimbursement to the county commissions of not more than fifty percent of the cost per voter for data entry or data conversion from a previous voter registration software program;

(8) Payment of up to fifty percent of the costs of conducting a joint program with participating counties to identify ineligible voters by using the United States postal service information as provided in section twenty-five of this article: *Provided*, That such assistance shall be available only to counties which maintain voter registration lists on the statewide uniform voter data system; (9) Payment of any dues or fees associated with a program to match and transfer data to and from other states;

(10) Resources related to voter registration and list maintenance; and

(11) Payment or reimbursement of other costs associated with implementation of the requirements of the National Voter Registration Act of 1993 (42 U. S. C. §1973gg): *Provided*, That revenue received by the fund in any fiscal year shall first be allocated to the purposes set forth in subdivisions (1) through (10), inclusive, of this subsection.



132           (b) The Secretary of State shall promulgate rules pursuant to the provisions of chapter  
133 twenty-nine-a of this code to provide for the administration of the fund established in subsection  
134 (a) of this section.

135           (c) Any balance in the fund created by subsection (a) of this section which exceeds  
136 \$100,000 as of June 30, 2017, and on June 30 of each year thereafter, shall be transferred to the  
137 General Revenue Fund.

**§3-2-23a. Cancellation of registration of deceased or ineligible voter.**

1           The Secretary may propose legislative rules regarding the maintenance of the security  
2 and privacy of the voter registration records and the procedures to be followed by clerks of the  
3 county commission and the Secretary to make changes in voter registration records, including  
4 cancellations.